

13-26-5. Right of rescission -- Cancellation.

(1) (a) Except as provided in Subsections (1)(b) and (c), in addition to any right to otherwise revoke an offer, a person making a purchase from a telephone soliciting business required to be registered under this chapter may cancel the sale up to midnight of the third business day after the receipt of the merchandise or premium, whichever is later, provided the solicitor advises the purchaser of his cancellation rights under this chapter at the time any solicitation is made.

(b) If the solicitor required to be registered under this chapter fails to orally advise a purchaser of the right to cancel under this section at the time of any solicitation, the purchaser's right to cancel shall be extended to 90 days.

(c) If the solicitor required to be registered under this chapter fails to orally advise a purchaser of his true name, telephone number, and complete street address at the time of any solicitation, the purchaser may cancel the sale at any time.

(2) Sales shall be cancelled by mailing a notice of cancellation to the telephone solicitor's correct street address, postage prepaid. If the telephone solicitor provided no correct street address, cancellation can be accomplished by sending a notice of cancellation to the division's offices, postage prepaid.

(3) (a) If a cancellation involves durable goods, as defined by rule, those goods shall be returned to the seller.

(b) If expendable goods are involved, the purchaser shall return any unused portion of those goods.

(c) A reasonable attempt shall be made to return goods to the solicitor's correct street address within seven days of exercising the right to cancel, providing the solicitor has provided the purchaser with the address. If the solicitor has failed to give a correct address, no return is required to qualify for a full refund of the purchase price.

(d) If the purchaser has used any portion of the services or goods purchased, the solicitor or telephone soliciting business shall receive a reasonable allowance for value given. This allowance may be deducted from any refund due the purchaser.

(e) A solicitor shall be jointly and severally liable with the telephone soliciting business for any refund amount due following the cancellation of a sale made by the solicitor.

(4) For the purposes of this section, "business day" does not include Sunday or a federal or state holiday.

Amended by Chapter 189, 1994 General Session